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10/755,037	01/09/2004	Stephen J. Brown	04-0100 / 7553.00063	7886
66683 7590 06/13/2008 HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303				
EXAMINER				
PHONGSVIRAJATI, POONSIN				
ART UNIT		PAPER NUMBER		
4176				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/755,037

Applicant(s)

BROWN, STEPHEN J.

Examiner

SIND PHONGSVIRAJATI

Art Unit

4176

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 16, 2007 (Preliminary Amdt).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-53 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20040520 and 20060119
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Notice to Applicant

2. This communication is in response to the Claim Amendments filed on 16 February 2007. Claims 1-31 have been canceled. Claims 32-53 are pending.

Claim Objections

3. Claim 42 is objected to because of the following informalities: the Examiner takes the position that the claim should read: The system of claim 41, wherein the messaging function includes downloading treatment directions "from" a health care provider. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 37-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 37-38 recites the limitation "the device meter" and "the device" in line 3 of Claim 37 and line 1 of Claim 38, respectfully. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 32-34, 36-40, and 49-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Tacklind (US 5,704,366).

9. As to **Claim 32**, Tacklind teaches a system for displaying personal health information (Tacklind, Abstract) comprising:

- a. a server coupled to one or more databases containing (i) health information, (ii) other information from a health provider and (iii) other inputs relevant to an individual (Tacklind, Fig. 1, col. 4 lines 14-24);
 - b. a software program configured to process data from the databases in order to generate a file by combining personalized data from the databases with a generalized display model for displaying health information, wherein the resulting file displays personalized health information for an individual on a display (Tacklind, Fig. 9, col. 10 lines 18-25, col. 5 line 64 to col. 6 line 15); and
 - c. a display coupled (i) to a multimedia processor and (ii) to the server over a network (Tacklind, Fig. 1, col. 5 lines 47-63).
10. As to **Claim 33**, Tacklind teaches the system of claim 32, wherein the multimedia display is selected from the group consisting of a personal computer, an internet television, a television and multimedia processor (Tacklind, Fig. 1, col. 5 lines 47-63).
11. As to **Claim 34**, Tacklind teaches the system of claim 32, wherein the databases are selected from the group consisting of electronic medical records, prescribed treatments, standards of care, formularies, personal profile, laboratory data, and monitoring data (Tacklind, Fig. 1- Fig. 4D-2)
12. As to **Claim 36**, Tacklind teaches the system of claim 32, wherein the database includes monitoring data collected from the individual through an interaction with the display (Tacklind, col. 5 lines 31-46).

13. As to **Claim 37**, Tacklind teaches the system of claim 36, wherein the monitoring data includes: data downloaded from the device meter; data transmitted to a service provider; and current and historical device data levels (Tacklind, Abstract).

14. As to **Claim 38**, Tacklind teaches the system of claim 37, wherein the device comprises a blood glucose meter (Tacklind, col. 5 lines 19-30).

15. As to **Claim 39**, Tacklind teaches the system of claim 37, wherein there is one or more devices for the measurement of one or more of the following: blood glucose, respiratory flow, conditions of feet, conditions of the heart, compliance with treatment, respiratory flow, blood pressure, cholesterol, weight, t-cell count, viral count, frequency of episodes of a mental health condition (Tacklind, col. 5 lines 19-46).

16. As to **Claim 40**, Tacklind teaches the system of claim 32, wherein the monitoring data comprises a logbook with one or more of the following data elements selected from the group consisting of medication data, symptoms, events, treatment plans, lab tests, diets, appointment schedule, checkup schedule (Tacklind, col. 4 lines 25-32).

17. As to **Claim 49**, Tacklind teaches the system of claim 32, wherein an interface to the personalized health information on the display is in the form of a body image (Tacklind, col. 8 lines 20-23 and col. 9 lines 1-3).

18. As to **Claim 50**, Tacklind teaches the system of claim 49, wherein the body image has indicators selected from the group consisting of a flashing icon, a change in color, and a change in condition, to alert the individual to an aspect of care that needs attention (Tacklind, col. 7 lines 34-51).

19. As to **Claim 51**, Tacklind teaches the system of claim 50, wherein the aspect of care is one or more of the group consisting of a compliance issue, a monitoring issue, a need for a checkup, and a need for further medical attention (Tacklind, For example see Fig. 4D-2).

20. As to **Claim 52**, Tacklind teaches the system of claim 50, wherein the image has a set of clickable regions that link to further information based on selecting the region with a pointing device (Tacklind, col. 8 lines 54-67).

21. As to **Claim 53**, Tacklind teaches a method for displaying personal health information comprising the steps of:

(A) coupling a server to one or more databases containing (i) health information, (ii) other information from a health provider and (iii) other inputs relevant to an individual (Tacklind, Fig. 1, col. 4 lines 14-24);

(B) configuring a software program to process data from the databases in order to generate a file by combining personalized data from the databases with a generalized display model for displaying health information, wherein the resulting file displays personalized health information for an individual on a display (Tacklind, Fig. 9, col. 10 lines 18-25, col. 5 line 64 to col. 6 line 15); and

(C) coupling a display (i) to a multimedia processor and (ii) to the server over a network (Tacklind, Fig. 1, col. 5 lines 47-63).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claim 35, 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacklind (US 5,704,366).

24. As to **Claim 35**, Tacklind teaches the system of claim 32, wherein said file comprises a personalized encoded file (Tacklind, col. 7 lines 23-33). But, Tacklind does not specifically disclose a HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility, and official notice to that effect is hereby taken.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

25. As to **Claim 41**, Tacklind teaches the system of claim 32, further comprising: a module for (i) sending and receiving messages to and from a health provider through the multimedia processor (Tacklind, col. 6 lines 6-26) and (ii) displaying messages on the display together as part of the encoded file of personal health information (Tacklind,

col. 6 lines 6-26). But, Tacklind does not specifically disclose a HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

26. As to **Claim 42**, Tacklind teaches the system of claim 41, wherein the messaging function includes downloading treatment directions form a health care provider (Tacklind, For example see Fig. 4D-2).

27. As to **Claim 43**, Tacklind teaches the system of claim 41, wherein the messaging function includes an instruction to transfer logbook contents to a service provider (Tacklind, col. 4 lines 29-32).

28. As to **Claim 44**, Tacklind teaches the system of claim 43, wherein the logbook contents comprise of one or more of the following elements: medication data, symptoms, events, treatment plans, lab tests, diets, an appointment schedule, and a checkup schedule (Tacklind, col. 4 lines 25-32).

29. As to **Claim 45**, Tacklind teaches the system of claim 41, wherein the messaging function includes an email to a health provider (Tacklind, col. 4 lines 36-40, Tacklind discloses a communication system being used to report to a health provider. The

Examiner takes the position that email can be used in the communication system, since email is a communication system in itself).

30. As to **Claim 46**, Tacklind teaches the system of claim 41, wherein the messaging function includes a compliance alert notifying the patient of a difference between actual treatment and recommended treatment parameters (Tacklind, Fig. 4D-2).

31. As to **Claim 47**, Tacklind teaches the system of claim 41, wherein the messaging function reminds the individual to seek medical attention for a specific indication (Tacklind, For example see Fig. 4D-2).

32. As to **Claim 48**, Tacklind teaches the system of claim 32, wherein the encoded file includes educational information directed to the individual based on the condition of an individual (Tacklind, For example see Fig. 4D-2, The Examiner takes the position that providing instructions for using the instructed medication and the cause and effect of using the said medication is sufficient for providing educational information directed to the individual based on the condition of an individual), but Tacklind does not specifically disclose a HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./
Examiner, Art Unit 4176
27 May 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
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